



General Assembly

Fifty-fourth session

Official Records

Distr.: General
22 December 1999
English
Original: Spanish

Third Committee

Summary record of the 31st meeting

Held at Headquarters, New York, on Wednesday, 3 November 1999, at 3 p.m.

Chairman: Mr. Galuška (Czech Republic)

Contents

Agenda item 109: Advancement of women (*continued*)

Agenda item 116: Human rights questions (*continued*)

(a) Implementation of human rights instruments (*continued*)

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The meeting was called to order at 3.20 p.m.

Agenda item 109: Advancement of women
(continued) (A/C.3/54/L.18/Rev.1)

Draft resolution A/C.3/54/L.18/Rev.1: Violence against women migrant workers

1. **Ms. Ramiro Lopez** (Philippines) said that Belgium, Burkina Faso, Cape Verde, Colombia, Congo, Costa Rica, El Salvador, Ghana, Haiti, Indonesia, Ireland, Kenya, Liberia, Malawi, Mali, Morocco, Nicaragua, Pakistan, Paraguay, the former Yugoslav Republic of Macedonia and Togo had become sponsors of the draft resolution. She hoped that it would be adopted by consensus.

2. **The Chairman** said that if he heard no objection, he would take it that the Committee wished to adopt draft resolution A/C.3/54/L.18/Rev.1.

3. *Draft resolution A/C.3/54/L.18/Rev.1 was adopted.*

Agenda item 116: Human rights questions
(continued)

(a) **Implementation of human rights instruments** (continued) (A/54/40, A/54/44, A/54/56, A/54/65, A/54/80, A/54/91, A/54/98, A/54/177, A/54/189, A/54/277, A/54/346, A/54/348, A/54/368, A/54/387 and A/54/426; A/C.3/54/5; A/C.3/54/L.8, A/C.3/54/L.31 and A/C.3/54/L.32)

Draft resolution on the question of the death penalty (A/C.3/54/L.8, A/C.3/54/L.31 and A/C.3/54/L.32)

4. **Ms. Ramiro Lopez** (Philippines) said that her Government could not support any resolution that called for the progressive abolition of the death penalty or for the establishment of a moratorium on executions. The International Covenant on Civil and Political Rights established the manner in which the death penalty should be imposed in a criminal justice system and a democratic civil society. As a State party to that Covenant, the Philippines imposed the death penalty only for heinous crimes and with full respect for due process and with safeguards for the rights of the accused, including the right to seek clemency or commutation of the sentence. Furthermore, the Philippines did not impose the death penalty on anyone under the age of 18; it had set extremely strict requirements for the imposition of that penalty; and it

ensured that only the most humane procedures were employed in carrying out the sentence. It had established a Presidential Committee which reviewed the cases of those sentenced to death and the Constitution empowered the President to pardon individuals sentenced to death or to commute their sentences, a prerogative which he had used on four occasions.

5. While it was important to respect the opposition of other delegations to the death penalty and their right to seek its abolition, it was unfair for some States to impose their will on others. Her delegation considered that a balance must be found between humanitarian concerns and the need for social justice; it therefore maintained its position, which reflected the sovereign will of the people of the Philippines.

6. **Mr. Al-Dosari** (Bahrain) said that in his country the death penalty was imposed only for the most serious crimes, such as murder, illicit drug trafficking and kidnapping. The abolition of the death penalty would have serious consequences since its inclusion in a country's criminal code was a product of both the culture and the legal tradition of individual societies. The death penalty could be abolished only under certain conditions, which were not the same in all countries, and, since it was an internal matter, it should not be subject to any outside interference. It was also necessary to achieve a balance between the rights of victims, those of society and the interests of justice. His Government considered that the death penalty was not a violation of human rights, but rather an effective means of protecting them and of guaranteeing respect for humanity and justice.

7. **Mr. Donigi** (Papua New Guinea) said that he endorsed the amendments proposed by the representative of Egypt to draft resolution A/C.3/54/L.8, which had been sponsored by some 80 Member States and appeared in documents A/C.3/54/L.31 and A/C.3/54/L.32. His delegation endorsed those amendments not only because it believed in the imposition of the death penalty, but for much more fundamental reasons, as demonstrated by his own country's history. Twenty-four years after achieving independence, Papua New Guinea had yet to impose the death penalty; although it had come close to doing so on one occasion, its criminal justice system had made it possible for the penalty to be reduced to a life sentence.

8. The question of punishment was closely linked to issues such as the purpose and supremacy of law and the need to guarantee security and provide a deterrent against criminal conduct. It was a matter that, without a shadow of a doubt, lay within the domestic jurisdiction of each State. Therefore, any resolution dealing with the right to life must include a reference to the principle set forth in Article 2, paragraph 7, of the Charter of the United Nations. Otherwise a precedent would be set that might lead to an era in which States would be subject to the whims of a super-State or institution. The international community must move with certainty, and the only certainty on the issue at hand was that an effort was being made to impose regulations on Member States and their institutions of government.

9. There had been a major outcry among the citizens of Western nations concerning the imposition of the death penalty in developing countries. Travellers entering a State must be aware that they would be bound by its laws; equality before the law was a basic democratic principle. His country's domestic legislation was based on the right to freedom and, under the Constitution, everyone was free to do anything that did not interfere with the freedom of others. An individual's freedom therefore also created obligations. The death penalty was not in itself inconsistent with the freedoms guaranteed by the Constitution of Papua New Guinea; in fact, it strengthened them and provided a deterrent that protected them. Any resolution which required the Parliament of Papua New Guinea to change its laws regarding the death penalty would constitute interference in the freedom, independence and discretion of the parliamentarians to promulgate such laws. Because the imposition of the death penalty in Papua New Guinea was left to the discretion of the judge, the draft resolution also constituted interference with the functions of the judiciary since the Supreme Court of Papua New Guinea was the only body competent to strike down legislation enacted by Parliament. His Government therefore opposed, and would continue to oppose, any move to impose such regulations on its highest legislative body or to limit the discretionary powers of its judiciary.

10. **Mr. Priputen** (Slovakia) said that he associated himself with the statement made by the representative of Finland on behalf of the European Union. The promotion, observance and protection of human rights

were among the international community's top priorities, and the adoption of human rights instruments had been a historic event. The international community should strive to attain universal ratification of, and strict compliance with, those instruments, a process that would entail an increasing need for control mechanisms. His Government welcomed the opportunity for dialogue with the human rights treaty bodies and the Special Rapporteurs since it was of great assistance in promoting the implementation of those instruments at the national level.

11. In order to ensure the more effective implementation of human rights instruments, the Constitution of Slovakia established that the international conventions to which the State had acceded took precedence over national legislation. On 22 June 1999, the Slovak Republic had ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. His Government also welcomed the adoption of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, which would certainly contribute to the achievement of that instrument's objectives. International organizations had a very important role to play, and close cooperation between States parties and international organizations, both intergovernmental and non-governmental, was of paramount importance. The creation of an effective mechanism to ensure respect for human rights was a function of the need to respond rapidly and adequately to violations of such rights, particularly those of children and other vulnerable groups. That would require new standards, and his Government was following closely, and taking part in, the elaboration of the optional protocols to the Convention on the Rights of the Child.

12. **Mr. Al-Absi** (United Arab Emirates) said that the death penalty was one of the major issues on which States had a right to decide, bearing in mind the beliefs of their people and their sovereign right to choose a social system and model. The death penalty was authorized under the legislation of many countries, including the United Arab Emirates, not by chance, but as a result of religious beliefs. It was the product of a legal system that was centuries old and had stood up to the passage of time, and it provided a deterrent against murder and made it possible to limit the spread of social scourges to which the developing countries were particularly vulnerable, including vengeance and the

temptation for people to take justice into their own hands, leading to a breakdown in society and fanning hatred and intolerance.

13. His Government respected the right of sovereign States to determine the legislation that governed the lives of their citizens, but it was opposed to some countries' claims to hegemony and efforts to interfere on the pretext of protecting human rights. Furthermore, the International Covenant on Civil and Political Rights authorized the application of the death penalty in certain circumstances. The legal system of the United Arab Emirates was based on Islamic law and on the values, standards, and virtues of human justice. Although the death penalty was permitted by law, it was imposed only on rare occasions and by the Emir's decree. Justice was administered to all, equally and without exception.

14. **Mr. Jemat** (Brunei Darussalam) said that his country would have preferred that the question of the death penalty had been considered in a more balanced manner. That issue had always been approached from the perspective of human rights, but focusing more on the right to life of the convicted person than on the rights of the victims and the community. The issue touched on the sovereign right of a country to establish its own judicial system. States had the right to impose the death penalty for the most serious crimes, in order to protect the country's peace and security, as stipulated in article 6, paragraph 2, of the International Covenant on Civil and Political Rights.

15. The system of capital punishment had long been used in Brunei Darussalam as a preventive mechanism and to punish very serious crimes, such as premeditated murder and drug trafficking. The system had managed to contain serious crime and maintain peace and harmony in the country, and the death penalty would therefore be upheld as a necessary component of the judicial system. Any change in a country's judicial system should be made in accordance with the will of the people; Brunei Darussalam would vote against the draft resolution on the death penalty.

16. **Mr. Ferguson** (Bahamas) said that the debate on the death penalty thus far clearly showed that there was no international consensus on the issue. Many representatives had expressed their Governments' respect for the right of those countries which had abolished the death penalty to do so, as well as their understanding of the motivation for the call for others

to do likewise. However, they had also underscored that there should be equal respect and understanding for those countries which retained the death penalty. The Bahamas recognized the sovereign and inalienable right of a State to determine the best way to maintain internal order and stability, and it retained the death penalty as one of the means of achieving those objectives, consistent with internationally agreed principles of good governance. That sentence was, however, imposed only for the most serious offences and after due process of law.

17. It was inappropriate to introduce in a forum such as the Committee an issue as divisive as the abolition of the death penalty, not for a balanced exchange of views, but to seek to force countries to agree to its abolition. Such action threatened the very principles on which the Organization had been established.

18. **Ms. Kapalata** (United Republic of Tanzania) said that the question of the death penalty should be considered under agenda item 107, "Crime prevention and criminal justice", as it was more closely related to that topic than to human rights. The death penalty was useful as a means of curbing impunity. International law provided for its use in special circumstances, and the International Covenant on Civil and Political Rights recognized the right of States to impose it. In exercise of its sovereign right, the United Republic of Tanzania had chosen to retain it because it served a useful purpose, although it was resorted to very sparingly. If some States sought to impose on others a particular regime of laws, that would be tantamount to interference in their internal affairs and, in some cases, would ignore their religious traditions.

19. The United Republic of Tanzania respected the sovereign decision of those countries which had abolished the death penalty and proposed its elimination, but it believed that they should respect the decision of those countries which had chosen to retain it. The real issue was not the death penalty, but whether States had the right to promulgate the kind of laws best suited to the needs of their societies. In the view of her delegation, States had that right, which was established in the Charter of the United Nations and was one of the foundations of international law. Only a few years earlier, most of the countries which currently were abolitionist had had the death penalty on their statute books and had defended it vigorously. If they had now abolished it, they had done so because they believed that it no longer served a useful purpose. In order to

respect the various choices countries had made, the European Union should withdraw the draft resolution on the death penalty, which only served to polarize the issue and undermine the smooth functioning of the Committee.

20. **Mr. Shobokshi** (Saudi Arabia) said that Islam, as a revealed religion, clearly guaranteed human rights, and that the Constitution of Saudi Arabia, which was immutable and based on the Koran, structured the lives of the people according to religious principles which established their duties and responsibilities. Human life was a gift of God, and therefore no person could destroy it. That right was granted exclusively to the State, which could exercise it to protect society. The Koran stated that whoever killed a human being without a reason deserved divine punishment. It was impossible to say that it was a violation of human rights to follow a divine commandment.

21. The draft resolution submitted by Finland on behalf of the European Union showed that it had fallen into a trap. The right of a victim to justice, in other words the need to impose a penalty commensurate with the crime, was a human right. The human right which should be borne in mind was the right of society to security and to enjoy protection against such offences as murder, drug trafficking, terrorism and other heinous crimes. Capital punishment and other severe penalties had no relationship to human rights and should be considered under the heading of crime prevention. To abolish the death penalty or reduce its application would in practice deprive Governments of a means of meting out justice. The international community was composed of sovereign States with different cultures, traditions and religions on which they based the measures they considered necessary for the protection of society. International law recognized that capital punishment was a legitimate penalty which they could impose in accordance with their internal laws and in exercise of their sovereignty. Article 6 of the International Covenant on Civil and Political Rights stipulated that, in accordance with its laws, a country could impose the death penalty for the most serious crimes.

22. The fact that some countries had signed treaties intended to abolish the death penalty did not mean that those instruments, including the second Optional Protocol to the Covenant, on the abolition of the death penalty, should be imposed on all Member States. The countries of the European Union, like others, had the

sovereign right to abolish the death penalty and also to retain it. But they did not have the right to impose their standards on other countries. Certain values were universal, but others, for cultural or religious reasons, were not. Values could not be exported. Societies adopted them if they were useful and did not contradict their cultural and religious traditions. The diversity of the values which prevailed in each society should be respected. It was to be hoped that, at the beginning of a new century marked by major changes, greater cooperation among States could be achieved on a basis of peace, equality, and brotherhood, and on respect for the values and traditions of all nations. The European Union should therefore withdraw the draft resolution, in order to avoid confrontation and division and to maintain consensus.

23. **Mr. Ajewole** (Nigeria) said that his delegation recognized the importance of United Nations human rights treaty bodies and the work of the Organization in the promotion and protection of human rights, of which Nigeria had recently been a beneficiary through the participation of a United Nations monitoring team in the elections that had ushered in the current democratic Government. Since independence, Nigeria's laws contained explicit provisions for the protection of fundamental human rights, which were in total accord with the Universal Declaration of Human Rights. In October 1993, his country had acceded to the two major human rights instruments, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and had accordingly established an independent National Commission on Human Rights. Since the current democratic Government had taken over, concrete measures had been taken to investigate past human rights violations, all political prisoners had been released and appropriate judicial processes had been put into place to bring perpetrators of human rights abuses to justice. Equal attention must be paid to all aspects of human rights, civil and political as well as social, economic and cultural. In Nigeria, poverty, unemployment and inadequate funding were limitations on development, and the Government had therefore taken steps to improve the living standards of the people. Furthermore, as a signatory to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, his country was committed to the total eradication of torture and other related practices, and had repealed all decrees that infringed on human rights.

24. The death penalty was essentially a matter of criminal justice and not a human rights issue; it was part of the policies applied by each State for the punishment of the most serious crimes which frequently reflected its values and culture. The death penalty existed in Nigeria, but it was applied only after due process of law. The rights of victims and of the community must be protected, and deprivation of life necessitated an appropriate penalty.

The meeting rose at 4.25 p.m.